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TRANSMITTAL FORM NOV 14 2003 (to be used for all correspondence after initial filing)	Application Number	10/619,380
	Filing Date	July 14, 2003
	First Named Inventor	Ty Whitaker
	Group Art Unit	Not Assigned
	Examiner Name	Not Assigned
Total Number of Pages in This Submission	Attorney Docket Number	281-398.01

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): One check in the amount of \$1638 for filing fee (\$770), claims (\$608), surcharge (\$130), and petition fees (\$130), Petition and fee under 37 CFR §§ 1.53(e) and 1.17(h) with request for refund (3 pgs.), Executed Declaration and Power of Attorney for Patent Application (4 pgs.), Copy of Notice of Incomplete Nonprovisional Application (2 pgs.), Copy of application postcard receipt (Date Stamped), Copy of express mail receipt (mail label EV 303718774US), Copy of Utility Patent Application Transmittal; Drawings marked (COPY) (3 sheets), Certificate of First Class Mailing, and Return mailroom postcard.
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm and Individual name	Wall Marjama & Bilinski LLP Joseph B. Milstein	Reg. No. 42,897
Signature		
Date	November 7, 2003	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:		
		November 7, 2003
Typed or printed name	Kathleen A. Mulligan-Piraino	
Signature		Date November 7, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date:

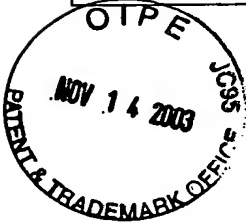
November 7, 2003

By:

Kathleen A. Mulligan-Piraing
Kathleen A. Mulligan-Piraing

Atty. Docket No. 281-398.01

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ty Whitaker, *et. al.*

Application No.: 10/619,380

Filed: July 14, 2003

For: Motion Management in a Fast Blood Pressure Measurement Device

Confirmation No. 5428

PETITION AND FEE

UNDER 37 CFR §§ 1.53(e) 2 & 1.17(h)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to a Notice of Incomplete Nonprovisional Application mailed from the U.S. Patent and Trademark Office on October 16, 2003, Applicants respectfully submit herewith the following:

a copy of the Notice of Incomplete Nonprovisional Application, which indicates that:

1. a filing date was not accorded the application because it is purported that the application was deposited without Drawings;
2. the filing fee is missing;
3. the oath or declaration is missing;

an original copy of the Declaration and Power of Attorney executed by the various inventors during the period of September 4, 2003 through September 11, 2003;

a check in the amount of \$1638, including \$770 basic filing fee, \$608 excess claims fee, \$130 surcharge - late filing fee or oath, and \$130 Petition fee;

a copy of Express Mailing Label No. EV303718774US, indicating a mailing date of July 14, 2003;

a copy of the Return Mailroom Postcard originally submitted with the application, indicating the submission of three (3) sheets of Drawings, which postcard bears the stamp of the United States Patent and Trademark Office, including the notations "10/619380" and "7/14/03;"

three (3) sheets of Drawing marked "COPY," including Fig. 1A, Fig. 1B and Fig. 2, each of which was originally submitted as part of the application in question;

a copy of the Utility Patent Application Transmittal, signed by the undersigned, and indicating the presence of three (3) sheets of Drawings (and the absence of the fee and the oath or declaration); and

a petition and fee under 37 CFR §§ 1.53(e) 2 & 1.17(h) for the above-identified patent application.

As evidenced by the enclosed copy of Applicants' new patent application postcard receipt, there is no indication that the Drawings were not found among the documents mailed to the U.S. Patent and Trademark Office. Had the Drawings been missing, a notation should have been made on the postcard to that effect, such as a line through the recitation "Drawings (3 sheets)." "A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. ... If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the

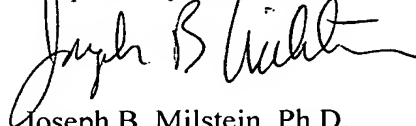
person receiving the items." MPEP §503 (emphasis added). Clearly, no notation was entered upon the Return Mailroom Postcard to indicate that the Drawings were missing at the time of receipt.

Therefore, Applicants respectfully submit that the three (3) sheets of Drawing including Fig. 1A, Fig. 1B and Fig. 2, which are called out within the Specification, were present as part of the application as filed. If the Drawings are presently missing, Applicants respectfully submit that they were lost or misplaced after arrival at the U.S. Patent and Trademark Office mailroom, which is a situation beyond the control of Applicants, and one for which Applicants should not be penalized.

Applicants hereby respectfully petition the Commissioner, requesting the determination that a filing date of July 14, 2003 be accorded the above-identified patent application in the U.S. Patent and Trademark Office, and that the three (3) sheets of Drawing submitted herewith be accepted and inserted in the file as replacements for the recited "Drawings (3 sheets)" originally submitted by Express Mail on July 14, 2003, and received at the U.S. Patent and Trademark Office.

Since it is believed that the Notice of Incomplete Nonprovisional Application was issued in error, Applicants request a refund of the petition fee under 37 CFR 1.17(h) in the amount of \$130. The Commissioner is authorized to deduct any additional fees from, or credit any overpayment to, the undersigned's Deposit Account No. 50-0289.

Respectfully submitted,



Joseph B. Milstein, Ph.D.
Registration No. 42,897

WALL MARJAMA & BILINSKI LLP

Date: ~~October 29, 2003~~ November 7, 2003 *fbm*

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